

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALBRECHT PANSING,

Petitioner,

- against -

MICHAEL B. MUKASEY, United States
Attorney General,

Respondent.
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DATE FILED: AUG 18 2008**

06 Civ. 10214 (PAC) (DFE)

ORDER

HONORABLE PAUL A. CROTTY, United States District Judge:

Pro se Petitioner Albrecht Pansing seeks a writ of habeas corpus from the denial of his application for a prison transfer to the German prison system by the International Prisoner Transfer Unit ("IPTU") of the U.S. Department of Justice. In his Petition for a Writ of Habeas Corpus (the "Petition") dated October 2, 2006, Petitioner seeks: (1) a declaratory judgment that Respondant considered "improper factors," and that his incarceration in the United States "will continuously deprive him of his right to rehabilitation;" and (2) an order directing the Respondent to "process" his requested transfer pursuant to The Transfer of Offenders To or From Foreign Countries Act, 18 U.S.C. §§ 4100 et seq. (1977) (the "Act"). In an opposing memorandum filed December 29, 2006, Respondent argues that the Petition should be dismissed because Petitioner's transfer request was denied in a reasonable and legitimate exercise of the discretion vested solely to the Attorney General and, by extension, the IPTU under the Act.

This case was referred by this Court to United States Magistrate Judge Douglas F. Eaton, who issued his Report and Recommendation ("R&R") on May 22, 2008, recommending that Respondent's motion to dismiss be granted. The Magistrate Judge

provided ten days for written objections, pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), and specifically advised that the failure to file objections within the time allotted “will preclude appellate review.” (R&R 5). No objections have been filed.

DISCUSSION

“To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003). Upon review and analysis, the Court finds no clear error in Magistrate Judge Eaton’s determination that:

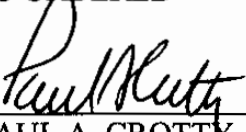
- 1) Petitioner fails to demonstrate a liberty interest protected by the Due Process Clause of the Fifth Amendment that would provide a basis for federal habeas relief; and
- 2) Petitioner has not shown a basis for the exercise of mandamus jurisdiction nor under the Administrative Procedure Act, 5, U.S.C. § 701(a)(2).

Accordingly, the Court accepts and adopts the Report and Recommendation as its opinion, and Petitioner’s habeas petition is DENIED. Pursuant to 28 U.S.C. § 1915(a)(3), I find that any appeal from this order would not be taken in good faith. Petitioner did not file objections to the Report and Recommendation, as required to preserve his right to appeal.

The Clerk of the Court is directed to enter an Order closing this case.

Dated: New York, New York
August 18, 2008

SO ORDERED



PAUL A. CROTTY
United States District Judge

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